

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 3, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 3, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; Darrell Downing; Shawn Farney; David Foster (in @ 1:34 P.M.); Bud Hentzen; Hoyt Hillman; Joe Johnson; Ronald Marnell; John W. McKay Jr. and M.S. Mitchell. David Dennis; Bill Johnson and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the November 5, 2009 MAPC meeting minutes:

MOTION: To approve the November 5, 2009 minutes as amended.

J. JOHNSON moved, **HILLMAN** seconded the motion, and it carried (9-0-1).

MCKAY - abstained

FOSTER (in @ 1:34 P.M.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2009-74: One-Step Final Plat -- ASR MR-51 WELL SITE ADDITION**, located on the southeast corner of 125th Street North and 199th Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use for a Major Utility has been requested.

STAFF COMMENTS:

- A. This plat will be subject to approval of an associated Conditional Use for a Major Utility and any related conditions.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage (waste holding tank) and water wells. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the drainage plan.

- E. The applicant needs to obtain a permit from County Engineering for the water well to remain in new road right of way.
- F. County Engineering requests a location of the water line.
- G. County Engineering requests a clarification of vertical pipe X3.
- H. County Engineering has approved the access controls. In accordance with the site plan, the plat denotes complete access control along 199th St West and one opening along 125th St North.
- I. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-39: City request to vacate a portion of a platted access and utility easement

OWNER/AGENT: Smith & Company, Inc. (owner) / KE Miller Engineering, PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: A 30-foot wide portion of the platted 90-foot wide utility easement – ingress/egress reserve located parallel to parts of the front, rear and side yards of Lots 4, 5, 6, 7, 8 & 9, Block A, the Smithmoor Commercial Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southwest corner of Greenwich Road and Harry Street. (WCC #II)

REASON FOR REQUEST: Increase lot sizes.

CURRENT ZONING: Site and all adjacent and abutting properties are zoned Limited Commercial (“LC”) and CUP DP-243 overlay.

The applicant is requesting consideration for the vacation of a 30-foot wide portion of the 90-foot wide platted utility easement – ingress/egress reserve. The proposed vacation will not change access onto the site. A platted 10-foot wide utility easement that ran parallel to that portion of the proposed vacation located parallel to the rear yards of Lots 4, 5 & 7 has been vacated; VAC2004-14. There appears to be sewer located in the described platted easement/reserve, in that portion along the west side of Lot 8. There are no water lines located in the described platted easement/reserve. There is no water, storm water or franchised utilities located within the described platted easement/reserve. The Smithmoor Commercial Addition was recorded with the Register of Deeds January 5, 2000.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement – ingress/egress reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 12, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted easement/reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) If necessary retain a portion of the utility easement – ingress/egress reserve for sewer.
- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide Storm Water, Public Works and franchised utilities with any needed plans for review for location of their utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Adjust the parcel lines of CUP DP-243, to reflect their new size and configurations through an Administrative Adjustment.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) If necessary retain a portion of the utility easement – ingress/egress reserve for sewer.
- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide Storm Water, Public Works and franchised utilities with any needed plans for review for location of their utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Adjust the parcel lines of CUP DP-243, to reflect their new size and configurations through an Administrative Adjustment.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

3-2. VAC2009-40: City request to vacate a portion of a platted easement, generally located east of Rock Road, on the southeast corner of 37th Street North and Comotara Street.

OWNER/AGENT: House of Schwan (owner/applicant)/Young & Associates, P.A (agent)

LEGAL DESCRIPTION: A portion of the platted 70-foot drainage & utility easement located along north lot line of Lot 2, the Comotara Industrial Park Second Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located east of Rock Road, on the southeast corner of 37th Street North and Comotara Street. (WCC #II)

REASON FOR REQUEST: Building addition

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned LI Limited Industrial ("LI").

The applicant is requesting consideration for the vacation of the described portion of the platted drainage & utility easement. Half of the described 70-foot wide easement is located on the north abutting (owned by the applicant) Lot 1, Comotara Industrial Park Second Addition; the applicant proposes to vacate only that portion located on the subject site. There is a sewer line in that portion of the easement that is proposed to be vacated; the applicant proposes to relocate the sewer line. There is storm water line in that portion of the easement that is proposed to be vacated; the applicant proposes to relocate the storm water line. There are no water lines or utilities located in the described platted easements; they are in ROW. The Comotara Industrial Park Second Addition was recorded with the Register of Deeds December 15, 1997.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted drainage & utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 12, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, including temporary easements, as needed and approved by Public Works, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds; 5 feet of easement.
- (2) Provide Planning staff with the legal description of the vacated portion of the drainage & utility easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works, Storm Water and franchised utilities with any needed plans for review for relocation of their utilities. Provided any needed guarantees for relocation of utilities. The listed project (give project number) can be used in lieu of guarantees; 2015 PPS & 2016 PPS.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, including temporary easements, as needed and approved by Public Works, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds; 5 feet of easement.
- (2) Provide Planning staff with the legal description of the vacated portion of the drainage & utility easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works, Storm Water and franchised utilities with any needed plans for review for relocation of their utilities. Provided any needed guarantees for relocation of utilities. The listed project (give project number) can be used in lieu of guarantees; 2015 PPS & 2016 PPS.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: ZON2009-35** - Builders, Inc. c/o Larry Webber (owner/applicant) Request City zone change from LI Limited Industrial to CBD Central Business District on property described as:

Parcel #1: Lots 25, 27, 29 and 31 on Wichita Street, in Waterman's Addition to Wichita, Sedgwick County, Kansas, EXCEPT beginning at the Southwest corner of said Lot 25; thence north along the west line of Lot 25, 17 feet; thence east parallel to the south line of said Lot 25, 100 feet; thence northeasterly 37.31 feet, more or less to a point on the east line of said Lot 25 said point being 35 feet north of the Southeast corner of said Lot 25; thence south on the east line of said Lot 25, 35 feet to the Southeast corner of said Lot 25; thence west on the south line of said Lot 25, 133.76 feet, more or less, to the point of beginning.

Parcel 2: Lots 33, 35, 37, 39, 41, 43, 45 and 47, on Wichita Street, in Waterman's Addition to Wichita, Sedgwick County, Kansas, EXCEPT the North 5 feet of said Lot 47 dedicated for street.

Parcel 3: A triangular tract of land being a part of Lots 20, 22 and 24 on Waco Street, Lots 19, 21 and 23 on Wichita Street, and the North and South alley between Waco and Wichita Streets vacated under Ordinance No. 8117 approved July 16, 1923 by The City of Wichita and by Order of Vacation filed in Book Misc. 570, Page 155 all in Waterman's Addition to Wichita, Sedgwick County, Kansas, and more particularly described as follows: Beginning at a point on the westerly line of Webb Street, 40 feet wide, as established by City Ordinance No. 7851, and No. 8317, 19 feet South of the intersection of the Westerly line of said Webb Street with the Southerly line of First Street; thence Southwardly, along said Westerly line of Webb Street 113 feet; thence Westwardly, by a straight line, parallel with the North lines of said Lots 19 and 20 and the extensions thereof across said vacated alley 100 feet; thence Northeastwardly by a straight line 151 feet more or less to a point of beginning.

Parcel 4: A parcel of land being a portion of the Wichita Street right of way as platted in Waterman's Addition to Wichita, Sedgwick County, Kansas, and being more particularly described as follows: Commencing at the Northeast corner of Lot 47, Waterman's Addition to Wichita, Sedgwick County Kansas: thence on a assumed bearing of S00°04'56"W along the West line right of way line of Wichita Street as platted in said Addition and the East line of said Lot 47, 5.00 feet to a point of beginning, said point being the South right of way line of Second Street as dedicated on Film 160, Page 426, and said point being on a curve to the right; thence 67.18 feet along said curve, said curve having a radius of 42.70 feet, a central angle of 90°09'13", and a long cord of 60.46 feet, bearing S45°01'19"E; thence S00°03'17"W, 461.01 feet parallel with and 70 feet West of the East right of way line of Wichita, Street as dedicated on Film 160, Page 424, to a point on a curve to the right; thence along said curve 45.34 feet, said curve having a radius of 75.50 feet, a central angle of 34°24'35", and a long cord of 44.66 feet, bearing S17°15'36"W; thence S62°06'14"W, 33.81 feet to a point lying on the West right of way line of said Wichita Street, a point lying 35 feet North of the Southeast corner of Lot 25, sad Waterman's Addition as deeded on Film 160, Page 427; thence N00°04'55"E, 562.22 feet along the West right of way line of said Wichita Street to the point of beginning. Said parcel of land contains 23,126 square feet of 0.53 acres, more or less, generally located west of Wichita Street, south of 2nd Street North and north and south of 1st Street North.

BACKGROUND: The applicant requests CBD zoning on a 2.7-acre site. The site is currently zoned LI and used for surface parking. The applicant indicates a desire to do mixed use commercial development. Unlike LI, CBD zoning would permit residential development, would not require off-street parking, and would allow building up to the property lines with no building setback requirement. A change from LI to CBD zoning would eliminate the following land uses: Tattooing and Body Piercing, Sexually Oriented Business, Rodeo, Off-site Advertising Billboards, and several industrial uses as permitted and conditional uses.

This western portion of downtown has an irregular border between LI and CBD zoning with LI along the river and the remainder of downtown zoned CBD. Property north of the site is zoned LI and developed with a postal facility. Land northwest of the site is zoned CBD and developed with offices. Property south of the site is zoned LI and CBD; this area is developed with structured parking and office uses. The block immediately east of the site is a mixture of LI with some CBD zoning, and is developed with office and parking uses. Further east, east of Water Street, property is zoned CBD with office uses. Land west of the site is zoned LI with office and institutional (church) uses.

CASE HISTORY: The site is part of the Waterman's Addition, platted in 1870. In 2004, this site vacated abandoned rail right-of-way (ROW) along the eastern border.

ADJACENT ZONING AND LAND USE:

NORTH:	LI, CBD	Postal facility, office
SOUTH:	LI, CBD	Office, structured parking
EAST:	LI, CBD	Office, parking
WEST:	LI	Office, church

PUBLIC SERVICES: Wichita Street is a one-way south local street at this location with a 60-foot ROW. 1st and 2nd Streets are both classified as Urban Collectors; both are primarily one-way streets with an 80-foot ROW. All other normal public services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area and all of the downtown area as the "Downtown Regional Center." The boundaries of the Downtown Regional Center are Central to the north, Kellogg to the south, Washington to the east, and the Arkansas River to the west.

RECOMMENDATION: A change to CBD zoning on this site will allow for greater mixed use development flexibility. The requested zone change will make the site more compatible with the Comprehensive Plan designation of "Downtown Regional Center." Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned LI and developed with a postal facility. Land northwest of the site is zoned CBD and developed with offices. Property south of the site is zoned LI and CBD; this area is developed with structured parking and office uses. The block immediately east of the site is a mixture of LI with some CBD zoning, and is developed with office and parking uses. Further east, east of Water Street, property is zoned CBD with office uses. Land west of the site is zoned LI with office and institutional (church) uses.
2. The suitability of the subject property for the uses to which it has been restricted: This site could continue to be used and/or redeveloped under the current LI zoning. However, LI zoning does not permit residential development, which would limit the mixture of uses on the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: CBD zoning on this site will permit development without an off-street parking requirement. The requested zone

change could increase the use of on-street and public parking in the area, impacting nearby properties which also rely on this parking. The requested change in zoning will prohibit some uses which could be out of character with surrounding properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area and all of the downtown area as the “Downtown Regional Center.”
5. Impact of the proposed development on community facilities: The proposed zone change could have a marginally greater impact on community facilities, specifically parking.

JESS MCNEELY, Planning Staff presented the Staff Report.

MITCHELL noted that the right-of-way on Wichita Street was 60 feet. He asked if there was any way to obtain additional right-of-way without hindering the proposed land use.

MCNEELY said the applicant had previously filed a vacation and expanded the property to the east.

HILLMAN said he didn’t want to exceed the Commission’s authority but he was curious with all the downtown planning and landscaping what the plans for this property were.

MCNEELY indicated that the applicant has not been specific about the proposed use but obviously they want commercial mixed use. He said Central Business District (CBD) allows the applicant flexibility if they decide they want to develop residential.

HILLMAN said although he respects their decision to not share information, he would very much like to know what their plans are.

LARRY WEBBER, BUILDERS, INC., APPLICANT said right now there was no intent to change the use and that they had been unaware that the whole area was not zoned CBD. He said with CBD they can do more than what the area is currently being used for which was a parking lot. He commented that the Garvey Center is currently blessed with 95% commercial occupation and 100% residential occupation.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **HENTZEN** seconded the motion, and it carried (11-0).

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5. **Case No.: CON2009-35** - PFISCO, LLC (John Pfister) / Ron C. Lee Request City Conditional Use for Sand and Gravel Extraction on property zoned SF-5 Single-Family Residential on property described as:

Parcel 1: The South 411.29 feet of the North half of the Southeast Quarter of Section 34, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Except the East 1145' thereof.

Parcel 2: The South 290 feet of the East 1145 feet, of the North half, of the Southeast Quarter, Section 34, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Except the North 150 feet, of the East 290.4 feet and Except the East 50 feet for road, generally located 1/4 mile west of Hoover Road and 1/4 mile south of 33rd Street North.

BACKGROUND: The applicant owns 14.2 unplatted acres located approximately 1,450 feet north of

29th Street North and 1,130 feet west of Hoover Road at 3227 North Eisenhower that is located in the City of Wichita. The applicant is seeking approval of a Conditional Use to permit the “mining or quarrying” of a four-acre sand pit over a four year time period.

The applicant’s site and operation plans are attached. As indicated in the applicant’s operations plan, Phase I is expected to take 12 months and average 10 daily truck trips. Some of the soil removed in this first phase (12,906 cubic yards) will be relocated to the applicant’s property located in Sedgwick County and immediately south of the application area (5950 West 29th Street North); some soil (3,226 cubic yards) will be stockpiled onsite and the remainder will be removed from the site. The Phase one material that will be transported to the applicant’s property located south of the application area will exit the southwest corner of the application area and travel along the rear of the residential lots located in Ridge Port Addition. Phases II and III will take an additional combined 24 months with Phase IV taking an additional 12 months for a total of four years of extraction. The pumps will be powered by Diesel engines. The four-acre pond would have setbacks of: 50 feet from the south property line, 235 feet from the west property line, 135 feet from the north and approximately 384 feet from the center-line of Eisenhower Street or 50 feet from the west fence line of the developed northeastern corner of the application area. The pond’s dimensions are to be 225 feet (north to south) by 850 feet (east to west). The site is to be fenced with a four-foot chain link fence topped with three strands of barbed wire. The site is mostly undeveloped except for the northeast corner where a rectangle approximately 275 x 350 feet has been improved and fenced. The completed pit will be used by the property owner for fishing and the raising of game fish.

The applicant does not propose any other improvements following completion of the pond. It should be noted that if the site is completed as shown it may be difficult to ultimately re-develop this land for a multi-lot urban density residential development that is in compliance with existing subdivision regulations.

The applicant’s site plan proposes to access the site from Hoover Road via a temporary property access easement beginning in the southeast corner of the applicant’s property, then through the applicant’s property located to the south of the application area, then east through the property at 3120 North Hoover Road (Marcilee Cook, et al) and 3059 North Hoover Road (William and Laurie Stone) to Hoover (not through 3227 Eisenhower as shown on the site plan). If this request is approved, a revised site plan that includes the property through which access to Hoover is obtained should be submitted. The applicant indicates the ingress and egress road is sand and gravel. To prevent the tracking of mud onto Hoover, the 100 feet of driveway adjacent to Hoover should be rocked with AB-3 type material.

Surrounding property located to the north is predominantly developed with a series of large lot (approximately four acres or larger) single-family residences zoned SF-5 Single-family Residential (“SF-5”). These lots have frontage on North Eisenhower, which is a substandard sand and gravel street that does not appear to be a publicly dedicated right-of-way. As currently constructed, this segment of North Eisenhower could not stand up to higher volumes of truck traffic without increased maintenance or improvement. Property to the east is also zoned SF-5 and is divided into large tracts. It appears there is a non-conforming salvage operation located to the east through which the applicant proposes to access Hoover Road. Land to the south is zoned SF-20 Single-family Residential (“SF-20”), is owned by the applicant and has a large completed sand pit (CU-242). The completed sand pit is, at its closest point, located approximately 50 feet south of the common property line between this tract and the application area; resulting in approximately 100 feet of separation between the completed pit and the proposed pit. Land to the west is zoned SF-5, is platted as the Ridge Port Addition and is developed with urban scale lots (12,000 square-foot lots) and single-family residences.

CASE HISTORY: The application area was annexed in 2000. The annexation established the site’s SF-5 zoning.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; large-lot single-family residences
SOUTH: SF-20 Single-family Residential; completed sand pit and large-lot single-family residence
EAST: SF-5 Single-family Residential; large-lot single-family residences
WEST: SF-5 Single-family Residential; urban scale single family residences

PUBLIC SERVICES: Public access to the site is via undedicated North Eisenhower; however, the applicant does not intend to use Eisenhower as the primary access to the property. Public sewer is located along the western property line. The closest public water appears to be located along 29th Street.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this site as being within Wichita's 2030 Urban Growth Area, which means that it was projected to have the potential to be developed by 2030 due to its proximity to public services. It is somewhat unusual for there to be request for mining and quarrying inside the corporate limits of the City of Wichita. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick County. The Strategy does not provide guidance for locations within the City of Wichita. Strategy IV.A.3 says that industrial traffic should be channeled to minimize any negative impact on local residential streets.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits mining or quarrying that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, unless modified by this Conditional Use.
2. Prior to commencing operations, the applicant shall submit a revised site plan that includes the property through which ingress and egress to Hoover is provided.
3. The site shall be developed and operated in a manner consistent with the approved site plan, operations plan for extraction and the development standards contained in this Conditional Use.
4. Since access to the site is over non-publicly dedicated right-of-way, the applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the driveway providing access to the site.
5. The Conditional Use permit shall be effective for four years beginning from the date of final approval.
6. If so directed by the Traffic Engineer, the applicant shall install 100 feet of AB-3 adjacent to the Hoover right-of-way within two weeks of being so directed.
7. In addition to other applicable enforcement remedies, if the Zoning Administrator finds that there is a violation of any of these conditions of approval, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Except for the spent sand pit zoned SF-20 Single-family Residential located south of the application area, surrounding properties are zoned SF-5, located inside the city limits of the City of Wichita and are vacant or developed with residential uses or non-conforming wrecking and salvage. Land to the west is developed at urban density while the properties to the north, east and south are larger lots or tracts. The character of the area is a contrast of residential, industrial and lakes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 which allows a limited range of residential and non-residential uses typically found in

a residential setting such as churches, schools or parks. The site could be developed as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development conditions should minimize anticipated detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval provides additional private open space and potential building sites at some time in the future.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts this site as being within Wichita's 2030 Urban Growth Area, which means that it was projected to have the potential to be developed by 2030 due to its proximity to public services. It is somewhat unusual for there to be request for mining and quarrying inside the corporate limits of the City of Wichita. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick County. The Strategy does not provide guidance for locations within the City of Wichita. Strategy IV.A.3 says that industrial traffic should be channeled to minimize any negative impact on local residential streets.
6. Impact of the proposed development on community facilities: Sand extraction does not typically impact publicly provided facilities other than increased truck traffic on roads. In this instance the applicant will have access to an arterial street. The condition requiring the applicant to provide some form of mud removal prior to exiting on to Hoover, if needed, should address that.

DALE MILLER, Planning Staff presented the Staff Report.

MILLER STEVENS asked about the exact location of the exit onto Hoover Road.

MILLER referred to the aerial map including Hoover Road. He commented that the "cross hatched" areas was where the ingress/egress to Hoover Road was located. He added that Eisenhower was not a publicly dedicated street and consisted of sand and gravel. He said the applicant has obtained permission to go through adjacent properties to get to the site.

MILLER STEVENS clarified that the applicant owns the property to the south.

MILLER said "yes" and the existing pond on it.

FOSTER mentioned the drainage plan the applicant submitted and asked if that was reviewed because he was concerned about the long-term overflow drainage discharging onto adjacent property.

MILLER said Storm Water Management will review the plan and if it needs to be "tweaked" they will work that out with the applicant.

HILLMAN said he appreciated staff's complete set of notes on this item. He referred to item # 4 under recommendations and asked how this area could be turned into a building site.

MILLER said that was a long-term issue. He said certainly the current applicant does not intend to develop the area; however, sometime in the future a different property owner may be interested in developing the area because of the shoreline.

HILLMAN noted the applicant will be driving through four-five other properties to get in and out of the site. He asked if these roads were gravel (or was the applicant going to provide gravel) and how were the vehicles going to be cleaned prior to exiting onto Hoover Road.

MILLER said the applicant has an access agreement from the adjacent property owner, which he believed was included in the Staff Report information. He said if the applicant's vehicles track mud onto Hoover Road that will be an issue for the applicant and Traffic Engineering to resolve.

MITCHELL asked staff to point out the location of 3120 and 3050 Hoover on the aerial map. He clarified that if he read the Staff Report correctly, some of the overburden will be taken down the west side of the south property.

MILLER said "yes" and added that the agent was present to answer questions. He said he believes the applicant plans to build a house on the southwest corner of the south property.

RON LEE, AGENT FOR FPFISCO LLC, APPLICANT said he was present to answer any questions.

MITCHELL asked if there was a good reason why both lakes could not be combined.

LEE said the lakes could be combined, but it was the intent of owner at this time not to combine them. He said the applicant is an avid sport fisherman and is having problems stocking the lake because the larger fish eat the smaller ones. He said once the fish grow larger in the small pond, they can be moved to the bigger pond. He said the applicant has no intention of selling or developing the property. He said Eisenhower dead ends into the applicant's property. He said the applicant will use the excavated top soil as filler for a house pad and walk out on the southwest part of the southern property, the location of which he indicated on the aerial map.

MITCHELL asked why the applicant doesn't create an access on his property to the south instead of onto Hoover Road.

LEE said there are many residential properties on the west side of the southern property. He said another issue was the distance from the lake to the bank. He said the property the applicant will be using to exit onto Hoover Road is a salvage yard with existing roadways through the area, which seemed the best solution. In addition, he said Hoover is a paved road and 29th Street is still a dirt road.

MITCHELL asked what were the distances to the adjacent properties on the south and east.

LEE said about 50 feet on the south.

MITCHELL noted that there was almost no distance between the property line and some of the adjacent properties on the north and east edges of the lake. He said it has been his experience that 50 feet isn't enough to handle encroachment caused by erosion. He said he didn't care whether the lakes are eventually joined.

LEE said the property line is roughly 20-25 feet in some locations.

MITCHELL said he was concerned about leaving adequate space between the edge of the bump out and protecting the lake.

LEE said the lake was done in the 70's.

MOTION: To approve subject to staff recommendation plus the requirement that the Storm Water Engineer approve the drainage plan prior to final approval.

DOWNING moved, **FOSTER** seconded the motion, and it carried (11-0).

MITCHELL confirmed with the motion make and second that they added “with the recommendations of the Storm Water Engineer prior to final approval” to the motion.

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6. **Case No: CON2009-36** - Richard J Gronniger (owner), Kansas Paving, c/o Larry Hacker (applicant), Baughman Co., c/o Russ Ewy (agent). County Conditional Use request to permit a two- year time extension for an existing sand extraction operation on property zoned RR Rural Residential (“RR”), on property described as:

That part of the Southwest ¼ of Sec. 4, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as: The West ½ of said Southwest ¼, EXCEPT the South 220 feet of the North 545 feet of the West 240 feet thereof, and EXCEPT beginning at the Southwest corner of said Southwest ¼; thence on an assumed bearing of North 00 degrees 27 minutes 48 seconds East, 120 feet along the West line of said Southwest ¼; thence North 78 degrees 00 minutes 34 seconds East, 1,364.80 feet to the East line of said West ½; thence South 00 degrees 22 minutes 58 seconds West, 400 feet to the Southeast corner of said W ½; thence South 89 degrees 50 minutes 52 seconds West, 1,333.33 feet to the point of beginning, generally located west of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West.

BACKGROUND: The applicant is requesting an amendment to Conditional Use CON2007-00044’s condition #5: Sand extraction shall cease June 18, 2010. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2010. Site restoration (grading, seeding, etc.) could continue after September 18, 2010.

The applicant is requesting a two-year extension for both the sand extraction and removal of equipment, due to a slow down of the economy, specifically construction. The proposed amendment would change condition #5 to read: 5. Sand extraction shall cease June 18, 2012. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2012. Site restoration (grading, seeding, etc.) could continue after September 18, 2012.

The subject property and the surrounding area is zoned RR Rural Residential (“RR”), which permits consideration of a Conditional Use for sand and gravel extraction. The area is outside the 2030 urban growth area for Wichita and the small cities. The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses along 73rd Street North. Non-residential development includes a contractor’s yard northeast of the site and two church campgrounds west of the site, both along 73rd Street North. Access onto the site is off of 73rd, a non-section line sand and gravel road maintained by Park Township with contractual assistance from the applicant. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal. There are at least two other spent sandpits (CU-277 & CU-268) and one approved sandpit (CON2006-13, not in operation) located within approximately ½-mile of the site, with all of them having or will be directing their sand trucks to Ridge Road.

CASE HISTORY: The current, unplatted 35.388-acre site was approved for:

- (a) CON2003-32, a 17.388-acre sand and gravel extraction operation, which created a 15-acre sand pit lake. The Conditional Use was permitted to operate for 8-years, with conditions. CON2003-32 was approved by the MAPC September 18, 2003. No recorded protests were received.
- (b) CON2005-0007 amended CON2003-32, to allow a five-strand barbed wire fence instead of the required chain link fence, in consideration that the site was located entirely in the Arkansas River 100-year flood boundary. Because the applicant was requesting a modification of a Supplemental Use Regulation standard of the Unified Zoning Code, the request went to the Board of County

Commissioners (BoCC, the governing body) for consideration and action. The BoCC approved the request at their June 1, 2005, meeting while retaining the other conditions of CON2003-32. No recorded protest were received

(c) CON2007-44 amended CON2005-0007 by;

- (i) Allowing an 18-acre expansion of the existing unplatted 17.388-acre sand and gravel extraction operation; this increased the 15-acre sand pit lake by 18-acres.
- (ii) Requiring the applicant to apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road.
- (iii) Ending all operations by June 18, 2010 and removing all equipment from the site by September 18, 2010. The new dates were one year less, than as approved on CON2003-32.

CON2007-44 was considered by the MAPC December 20, 2007, which recommended that the applicant and staff come to a resolution in regards to improvements, maintenance and repair of 73rd Street North. The agreed improvements, maintenance and repair of 73rd were approved at the MAPC's March 13, 2008, meeting, as reflected above. Although no protests were recorded, there were neighborhood concerns expressed at the MAPC's meetings about truck traffic generated by the sand and gravel extraction and its impact on 73rd Street North and the neighborhood, as well as drainage. As stated in the background of this report the applicant is asking to be allowed a two year extension of all operations.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	agriculture, scattered large tract single-family, contractor's yard
SOUTH:	"RR"	agriculture, Arkansas River, sand pits
EAST:	"RR"	agriculture, scattered large tract single-family, drainage
WEST:	"RR"	scattered large tract single-family, church campgrounds

PUBLIC SERVICES: This site has access to 73rd Street North, a sand, non-section line, Park Township road. 73rd Street North intersects Ridge Road, a two lane paved County Highway, located ¾ of a mile east of the site. There are no current traffic volume figures available for either road. The "2030 Transportation Plan" estimates that the traffic volume on Ridge Road, between 77th Street North and 61st Street North will be approximately 5,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service. The site is located outside the 30-year urban service area and all small city growth areas.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide classifies this area as "Rural." This classification encompasses land outside the 2030 urban growth areas for Wichita and the small cities. The "Rural" classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. A sand and gravel extraction operation is considered "mining and quarrying," which is an industrial use. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource. Sand and gravel extraction operations are a common use in areas of rural Sedgwick County that are in close proximity to the Arkansas River.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, amending condition #5, as shown in bold, and retaining the other listed conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations

required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.

2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.
3. Fencing shall be what was approved in CON2003-32.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. **Sand extraction shall cease June 18, 2012. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2012. Site restoration (grading, seeding, etc.) could continue after September 18, 2012.**
6. The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road. The initial application rate and application schedule will be based on a written recommendation made by an experienced supplier for an annual maintenance cycle. A letter from the supplier stating the recommended annual schedule will be provided to MAPD, County Public Works and Code Enforcement prior to April 1, 2008. The applicant shall notify County Code Enforcement in writing within 10 days after each application of dust control agent. The notification shall state the dust control agent used, application rate, total amount applied and date of application. The application schedule and rates may be adjusted by the applicant based on actual road and weather conditions with written approval from County Code Enforcement and County Public Works.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage on the site.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is primarily agricultural with scattered large tract single-family residential all zoned RR. The proposed two year extension of all operations (including removal of equipment as listed in the amended condition #5) of the sand and gravel extraction site will not alter the zoning, uses, and character of the area. There are at least 3 other gravel and sand extraction operations, spent or approved from the Arkansas River to 77th Street North, west of Ridge Road.
2. The suitability of the subject property for the uses to which it has been restricted: The RR zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. The current use could continue as permitted with CON2007-44, but because of the slowdown in the economy the extraction of sand and gravel from the site will be less than what was anticipated. The resulting sand pit, to be used by the property owner, would also be smaller than what was permitted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed two-year extension means a longer period of heavy truck traffic to and from the site. The applicant is still required to operate within the conditions of CON2007-44, including providing dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for “Rural” development. The “Rural” classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. A sand and gravel extraction operation is considered “mining and quarrying,” which is an industrial use. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The proposed two-year extension of the operation of the sand and gravel extraction operation is a result of the current slow economy. The proposed extension of the operation of the sand and gravel extraction operation does not change the character of the subject site and as such is not out of conformance to the adopted or recognized Comprehensive Plans or policies.
5. Impact of the proposed development on community facilities: The proposed two-year extension of the operation of the sand and gravel extraction operation will extend heavy truck traffic on 73rd Street North, a non-section line sand road maintained by Park Township and the applicant. However, the current maintenance arrangement seems to have addressed the original concerns.

BILL LONGNEK CER, Planning Staff presented the Staff Report and referred to an e-mail received concerning the condition of the road and flooding, which he said was forwarded to the County Engineering and County Code Enforcement.

HILLMAN asked if 73rd Street was being maintained properly.

LONGNECKER said the County Engineering was present to answer that question as well as others. He said he and Dale Miller had driven the road when preparing this report. He said the road was not as “washboard” like, as that part of the road west of the drive to the plant, which was not part of the maintenance agreement.

JIM WEBER, DEPUTY DIRECTOR, SEDGWICK COUNTY PUBLIC WORKS said he hasn’t been out to the site for several months, but that the road looked pretty good the last time he was out there. He said when they receive complaints concerning road maintenance and dust issues they work with County Code Enforcement to make sure that treatment with magnesium chloride or calcium chloride is happening on schedule. He said the condition of the road is better now than it was before the sand pit operation began.

HENTZEN asked how often the treatment should be made.

WEBER said application of the treatment is really weather dependent. He said if the weather is dry all the time, multiple treatments of the magnesium chloride or calcium chloride are required. He said basically it holds moisture to the road. He said the treatment builds up in the road when it is used but there is no hard set rule as to how often applications are required.

HENTZEN asked in the four years of operation, how many times has the road been treated.

WEBER said he believed the road has not been treated more than a couple of times.

MITCHELL asked staff to address the flooding issue.

WEBER said the whole area is in a flood plain. He said with the right rainfall and flooding conditions water does get out of the river and that it probably has done that to some degree in this area. He mentioned the berm on the southeast corner that they asked the owner to remove.

MITCHELL said he seemed to recall that the berm was a recommendation of the Groundwater Management District #2

WEBER said the berm was present for two reasons. The first was for Groundwater Management District #2 to keep water from running out of the pit. The second was for the Mine Safety Act requirement, which requires that the same berm be large enough that traffic cannot drive over it into the pit; the berm ends up becoming larger. He said Groundwater Management District #2 might need a one foot or 18-inch berm, and the Mine Safety Act may require a three-foot berm, so they are kind of competing interests.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR APPLICANT commented that the owner, Richard Gronniger, was present to answer questions. He said his office worked with the County to obtain the necessary local and state permits, including permits related to drainage on the site.

RICHARD GRONNIGER, OWNER, 8443 273RD STREET NORTH said the road has only been treated three times since the dust control requirement was put on the last application. He said how often the road is treated depends on the weather.

HENTZEN clarified that the applicant will continue to treat the road based on weather conditions.

MOTION: To approve subject to staff recommendation.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (11-0).

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7. **Case No.: DER2009-14** – Request The City of Goddard seeks unilateral annexation of various tracts of land - Resolution No. 09-09.

Background: On November 4, 2009, the City of Goddard passed Resolution No. 09-09 authorizing a public hearing on January 4, 2009, for the purposes of considering the unilateral annexation of 35 separate tracts of lands located adjacent to and north of the City of Goddard. The configuration of these tracts would create an unconventional, ribbon-like northward extension of the city limits, effectively creating a municipal barrier paralleling the western edge of 183rd Street West, and the southern edge of 13th Street North

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Goddard has not submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation areas.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that all 35 tracts proposed for unilateral annexation fall outside the City of Goddard 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. These tracts also fall outside the future

city growth area as prescribed in City of Goddard 2002 Comprehensive Plan Future Growth Map on file with the MAPD.

Staff has concluded that the proposed unilateral annexation by the City of Goddard is not consistent with the Wichita-Sedgwick County Comprehensive Plan. Staff has also noted that 14 unplatted tracts are included in this annexation ordinance that do not meet the eligibility requirements for annexation as outlined in KSA 12-520 (a). Staff has informed the City of Goddard Director of Community Development of this situation.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 09-09 of the City of Goddard to contains 35 tracts that fall outside the City of Goddard 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan, and is therefore inconsistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER, Planning Staff presented the Staff Report.

FOSTER said although he recused himself from the Maize annexation discussion, he said he thought this situation was similar – small city growth outside the 2030 urban growth area. He asked about the possibility of revisiting the Wichita and Small Cities 2030 Urban Growth Areas Map, asking questions and engaging communities in discussion of the growth plan.

BARBER agreed that was probably a good idea since the plan hasn't been reviewed since 2005. However, he said he still thought it unlikely that this proposed configuration of Goddard growth and expansion to the north would be supported in any approved update or revision to the existing 2005 map.

MILLER STEVENS questioned how Goddard planned to extend urban services to the area.

BARBER said that was not an issue for consideration by the MAPC. He said the issue is whether the proposed annexation tracts are, or are not consistent with the Comprehensive Plan. He said Goddard's ability to provide services to the area was an interesting but moot point.

MITCHELL asked if these tracts were presently occupied with individual services.

BARBER responded "yes" he believed they were.

MOTION: To approve subject to staff recommendation that that the requested annexation is not consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 2:15 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)